

Minutes of Special and Regular Meeting of October 13, 2009

One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION - 6:00 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation, one case

Attended by Councilmembers Feierbach, Dickenson, Wozniak, Lieberman, Braunstein, City Manager Crist, City Attorney Zafferano, Special Counsel Cobey. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 6:45 P.M.

Terri

Cook

City Clerk

This meeting was not tape recorded or videotaped.

STUDY SESSION

Study Session Regarding High Speed Rail (HSR) Draft Public Outreach Plan for the City of Belmont

City Manager Crist stated that there has been much interest expressed in the proposed High Speed Rail (HSR) project. He noted that the High Speed Rail Coalition has retained the services of Mike Garvey as a consultant to assist in the development of its outreach strategy.

Mike Garvey, HSR Outreach Consultant, provided background of the High Speed Rail project. He noted that the EIR (Environmental Impact Report) has been certified. A lawsuit has been filed but is not effective for the Peninsula corridor section of the proposed project. A \$9.8 billion bond issue was passed by the voters in 2008, and the project has been divided into eight segments. Many who voted for the bond are concerned regarding the details of the projected plans. He noted that many of the outreach meetings held so far have been contentious but have produced good dialog. He clarified that the project is in the EIR review stage, which is a two-year process. One option is to not build, and that option will be evaluated. He explained that all issues need to be addressed during this process.

Consultant Garvey stated that he is visiting all cities in San Mateo County, and various other groups are meeting concurrently. He described the outreach plan for the City of Belmont.

In response to Council questions, Mr. Garvey clarified that the balance of funds for completion of the project would likely come from grants and private investors. He also clarified that a decision would be made whether or not to bring HSR to the Peninsula corridor, and Highways 101 and 280 have been considered. He described the feasibility that would need to be evaluated should HSR be brought as far as San Jose, and how riders would travel the Peninsula corridor. He clarified that it is possible that the train could be operated as a regular train. He noted that there are many federal regulations to be followed in this process.

Councilmember Wozniak expressed concern regarding outreach, and recommended that all options be given the same weight. She noted that each city is unique, and she is concerned regarding the effect on Belmont's economic development plans if HSR is brought to the Peninsula. She is also concerned that HSR would split the City. She noted that Cal Train currently does not have many stops in Belmont and HSR trains are not likely to stop here at all. She supports any outreach strategy.

In response to Councilmember Dickenson, Consultant Garvey stated that there are many options for HSR placement in Belmont and its surrounding communities, and that all have advantages and disadvantages. He stated that the potential HSR station stops include Millbrae, Redwood City and Palo Alto. He noted that HSR prefers a terminus at the Transbay Terminal in San Francisco.

Discussion ensued regarding ways to outreach within the City of Belmont. Council concurred with the proposed Outreach Strategy, and suggested making use of as many means as possible, including banners, the Twin Pines sign board, email groups and the City's website.

REGULAR MEETING

CALL TO ORDER 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Dickenson, Wozniak, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, City Attorney Zafferano, Human Resources Director Dino, Interim Public Works Director Borrmann, Police Chief Mattei, Recreation Manager Brunson, Finance Director Fil, Assistant Finance Director Tu, Chief Building Official Nolfi, Finance Director Fil, City Treasurer Violet, and City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by Raul Zamora, Carlmont High School Principal.

Other administrators from Carlmont High School introduced themselves and outlined their areas of service.

Mr. Zamora indicated that the school staff works together as a team. He commented that Carlmont High School achieved an API (Academic Performance Indicator) score in 2009 of over 800, which represents a gain over the previous year. He thanked Police Chief Mattei for his department's support of the school. He outlined Homecoming activities and described the school's instructional strategies. He also outlined new programs that have been initiated this school year.

Mayor Braunstein stated that he had received many inquiries regarding the new principal at Carlmont, and he wanted to provide an opportunity for Mr. Zamora to be introduced to the community.

Councilmember Wozniak suggested scheduling a future study session for outreach to the Carlmont High School community.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated that direction was given but no action taken on the Closed Session held earlier.

SPECIAL PRESENTATIONS

Presentation by Carole Groom, San Mateo County Board of Supervisors, District 2

Supervisor Groom provided an update on budget issues facing San Mateo County. She outlined the various ways in which the \$100 million structural deficit will be addressed, and clarified that probable cuts in services would occur. She noted that the County's budget is balanced, but the State may be taking money away once again. She explained that funding for mandated programs have been discontinued, but counties are still required to continue the mandate. Concerns have been expressed regarding the status of State parks located within San Mateo County. She described other service impacts, and described the outreach the County is performing to its service providers.

Supervisor Groom noted that C/CAG and the San Mateo County Transit Authority each support the construction of the bike/pedestrian bridge. She stated that she is the County representative to the High Speed Rail Coalition.

Proclamation to Teri Nash

Mayor Braunstein presented the Proclamation to Teri Nash. Ms. Nash stated that she is grateful to be in the community.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Mary Ridge, Belmont resident, described a recent sewer backup she experienced at her home, which resulted in a \$7,000 plumbing bill. She noted that the City had planted a tree on the sidewalk that caused the problem. She requested a reimbursement for the bill she incurred.

Kathleen Beasley, Belmont Library Branch Manager, distributed copies of the Library's Annual Report (on file in Clerk's office). She highlighted the Belmont Library's accomplishments and outlined upcoming events.

Mayor Braunstein noted that the Annual Report is a testament to excellent staff work at the Library. He stated the Library has outstanding projects and provides a great resource for the community.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Lieberman thanked Public Works staff for their expeditious handling of clearing clogged storm drains during the day's rainy weather.

Councilmember Dickenson noted that the City of Redwood City has not yet gone to bid on the Highway 101 landscaping project. He stated that he plans to visit Redwood City officials regarding this matter.

Mayor Braunstein announced that nominations for Beautify Belmont awards were being accepted, and that the last day to register for the November 3rd election is October 19th. He also stated that the Save the Music Festival was successful. He noted that the Police Department would be holding a Community Forum on October 22nd.

Police Chief Mattei provided details regarding the Forum.

AGENDA AMENDMENTS

Councilmember Dickenson requested that the Council Intergovernmental reports (IGR) be moved forward on the agenda. Mayor Braunstein stated that there was other important business on the agenda and recommended that it be left as is.

Council discussion ensued and Council concurred to take up the matter of Council IGR reports immediately following the Consent agenda.

Councilmember Wozniak requested the removal of Consent Items 4-B (Written Communication) and 4-E (Resolution Approving the Joint Use Agreement between the City of Belmont and the Belmont-Redwood Shores School District) for separate consideration.

Mayor Braunstein noted that staff requested the removal of Consent Item 4-C (Authorizing Acceptance of a Donation in the Amount of \$5,000 from the Oracle Corporation and a Donation in the Amount of \$1,000 from the Belmont Chamber of Commerce to the Belmont Police Department Safe Schools Program) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of September 8, 2009, and Special Meeting of September 15, 2009

Approval of Resolution 10173 Approving to Extend the Existing 100-Foot Drop-Off Zone to 200-Feet at Merry Moppet School Located at 2200 Carlmont Drive, Replacement of the 25-foot Drop-Off Zone on Carlmont Drive at the Crosswalk at Mulberry Court with No Parking Restrictions and Eliminate the 20-Minute Parking Zone

Approval of Resolution 10174 Authorizing Holiday Closure

Approval of Resolution 10175 Accepting a Mini-Grant from the Office of Traffic Safety for the "Click it or Ticket" Seat Belt Enforcement Campaign for Local Law Enforcement Agencies in the Amount of \$17,150

Approval of Resolution 10176 Accepting the Subsurface Structure Easement on Marburger Avenue, Parcel Number 043-203-450 and Authorizing the City Manager, or Designee, to Execute the Subsurface Structure Agreement and Right-of-Way Contract for the Marburger Avenue Road Repair Project, City Contract Number 499

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the Consent Agenda was unanimously approved, as amended, by a show of hands.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Written Communication: CPUC Application Filing by PG&E Re 2011 Gas Transmission and Storage Costs

Councilmember Wozniak stated that she removed this item from the Consent Agenda in order to draw attention to the request of PG&E.

Councilmember Dickenson expressed support for the Infrastructure Committee's review of these PUC (Public Utilities Commission) hearing notices.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, the Written Communication from the CPUC was unanimously approved by a show of hands to be filed.

Resolution Authorizing Acceptance of a Donation in the Amount of \$5,000 from the Oracle Corporation and a Donation in the Amount of \$1,000 from the Belmont Chamber of Commerce to the Belmont Police Department Safe Schools Program

Police Chief Mattei expressed a desire to publicly recognize Oracle Corporation and the Belmont Chamber of Commerce for their contribution to the Safe Schools program. He noted that this donation will help fund many programs.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10177 Authorizing Acceptance of a Donation in the Amount of \$5,000 from the Oracle Corporation and a Donation in the Amount of \$1,000 from the Belmont Chamber of Commerce to the Belmont Police Department Safe Schools Program was unanimously approved by a show of hands.

Resolution Approving the Joint Use Agreement between the City of Belmont and the Belmont-Redwood Shores School District

Councilmember Wozniak expressed her appreciation to the Parks and Recreation Department for their efforts on this matter. She expressed concern regarding the hours of operation from sunrise to sunset as those hours contradict those outlined in the noise ordinance. She supports the use of the parks during these hours, but suggested that noise not be allowed during early morning hours.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, Resolution 10178 Approving the Joint Use Agreement between the City of Belmont and the Belmont-Redwood Shores School District was unanimously approved by a show of hands.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS (item out of order on agenda)

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Dickenson reported regarding recent Belmont-San Carlos Fire Department Commission meetings. He stated that the newly-revised agreement is in its third year and the department is a more efficient organization. He noted that the City of San Carlos contends it is

paying too much for its share of the Fire Department's budget, and it has proposed a change in the funding formula to 51 percent San Carlos/49 percent Belmont. He clarified that the formula is set up for fairness and should not be manipulated. He described the discussion that the Commission has had regarding proposed changes in the formula factors and percentages, and that there was a 3-1 vote to bring the issue to each City for discussion and action. He requested the scheduling of a special Belmont Fire Protection District meeting to address this issue.

Councilmember Feierbach stated that she has many questions regarding this issue and plans to attend the next Fire Commission meeting.

Councilmember Lieberman stated that this is an important issue, and Councilmember Dickenson was providing an update, as there is no action to be taken at this time.

NEW BUSINESS

Discussion and Direction on Consideration of a Residential Records Report and Inspection Program

Community Development Director de Melo described how this program is being used in other cities to address code violations. He clarified that the purpose is to address fire, health and safety issues only, and is not intended to gain compliance on other code issues. He also clarified that it is not intended to force properties to update to new building codes. He noted that the goal is to preserve housing stock and to protect homeowners.

In response to Councilmember Wozniak, Community Development Director de Melo noted that unpermitted work is usually disclosed at the time of sale. He noted that some potential home buyers check with the City's Permit Center prior to purchase. Buyers often attempt to legalize unpermitted projects and bring the work to code or remove it. Sometimes construction is poor, which is a safety issue.

City Attorney Zafferano clarified that the seller is required to disclose unpermitted work, and the remedy exists between the buyer and seller during escrow. The buyer bears the cost if the issue arises following the sale, and the proposed program is intended to relieve the buyer of the burden. He further clarified that certain immunities exist for City staff regarding such an inspection program.

Councilmember Wozniak stated that a positive component of the proposal is to shed light on the record for all to see.

Community Development Director de Melo stated that the goal is proactivity, not to slow down home sales. He noted that the Permit Center receives many inquiries regarding existing permits, and inspections are made. The City is often put in the middle of a potential home sale.

Councilmember Feierbach expressed concern regarding the economy and the timing of this proposal. She stated her primary concern is code enforcement, expansion of homes without permits, and the illegal use of properties.

Community Development Director de Melo clarified that this program was discussed during the recent approval of the Housing Element.

Councilmember Dickenson stated that direction was given previously to move Code Enforcement to the Police Department. Community Development Director de Melo responded that Code Enforcement was discussed in June. It is an effort that involves several departments. Staff intends to bring this issue back to the Council for future discussion and direction. He concurred there is a need to revamp the program.

Dave Warden, Belmont resident, stated that he does not support the proposal, and noted that the timing of it is problematic. He noted that there are already many disclosures required at the time of sale. He questioned the genesis of this issue, as it is a process and policy issue which should be prioritized by the City Council.

Tom Diridon, San Carlos resident, questioned how this issue arose. He noted that if code issues are important, those should not wait until the home is going to be sold. He clarified that only 10 percent of Belmont homes are sold annually. It is onerous for this matter to be handled at point of sale.

Broderick Page, Belmont resident, expressed concerns regarding legal issues and personal property rights. He noted that this program could be made an option for a home seller.

Michon Coleman, San Mateo County Association of Realtors, stated that she understands the concerns that would be addressed by such a program, but this is the least effective and least efficient way to address health and safety issues. She noted that point-of-sale mandates are ineffective and inequitable. She stated that there is a small turnover in properties annually, and there are costs associated with this program. She is concerned regarding the effect on short sales.

Jason Born, Belmont resident, expressed support for a City-wide effort to address code issues. He expressed concern regarding the spirit of how to approach safety. He supports an amnesty program. He noted that potential buyers currently have the ability to obtain information regarding building permit history, and he encourages buyers to do so. He noted that such a proposed program could put the agent and property owner into a position of possible misrepresentation. He suggested relaxing regulations for secondary dwelling units if those units are within the building footprint.

James Parish, Tri-County Apartment Association, expressed concern regarding this program. He stated it could jeopardize a potential sale, and questioned the effect on rental properties.

Dennis Pantano stated there are many housing units in Belmont, and it would take some time to get to all of them. He described the process for getting a building permit. He expressed concern regarding the need to legalize old work, and noted that those who are selling should not be penalized.

Chuck Blanchard, Belmont resident, stated he does not support this program. He commented that politics is not a health and safety issue. There is no need to impose new standards on old homes.

Irene Ng stated that a home sale is a matter between the buyer, the seller and the lender. She expressed concern regarding the imposition of such a program during the current economy. She explained that lenders have imposed new restrictions regarding appraisals, and code compliance is a factor in home sales. This would be a duplication of efforts.

John Ou, Belmont resident, stated that this program would be too much of a burden for the seller. He described inspections that are made in preparation for a home sale. He expressed concern regarding the amount of staff time this would require.

Mary Parden described the process used following an insurance claim or loss. She noted that claim money is set aside to bring the property into code compliance if the owner sustains a loss, which includes previous work done without permit.

Joan Peceimer, Belmont resident, expressed concern that the program assumes that illegal work is not code compliant.

Slava stated that he does not support this proposal. He requested data on the number of 9-1-1 calls received because of illegal work. He expressed concern regarding an owner's ability to sell their home should this program be instituted.

Mike McGuinness, Belmont resident, stated that the burden would be on the seller for problems from previous owners. He noted there may be other options to remedy the situation. He expressed concern regarding the burden on the seller, especially if the home needs to be sold due to financial issues. He stated there are adequate disclosures at the time of sale which can be used as leverage. He questioned the timing of this proposal.

Chief Building Official Nolfi stated that the majority of illegal work is code compliant. He noted that the City often receives complaints of illegal work and illegal secondary dwelling units. City staff is available to help people get work done, and most do so. He noted that there are no penalties at the present time, although Planning Commission review is sometimes required. He clarified that building codes exist for safety reasons.

Community Development Director de Melo clarified that there is no data regarding 9-1-1 calls.

Councilmember Feierbach expressed concern regarding illegal building expansion, and noted these properties are not paying additional property taxes for added value. She is also concerned about illegal secondary units. She noted that Council may be addressing amnesty at a future time, which could add to the housing stock. She stated that it is not the right time for implementation of this proposal.

Councilmember Lieberman stated he does not support this proposal at this time, and he commented he may not likely ever support a mandatory inspection program. Fees are not likely

to cover costs, and permits are designed to be cost neutral. He clarified that the intent of the fee is to cover staff costs and is not intended as a revenue source. There may be a possibility for stronger disclosures under current law.

Councilmember Wozniak noted that the concept had a good origin and this discussion was intended as a preliminary review only. She commented that previous City records were not always complete, and data was often missing, which has been rectified. She expressed concern regarding financial burden and agreed this may not be a good time to impose such a program. She expressed a desire to provide a service for obtaining residential records. She noted that code issues often arise at Planning Commission.

Mayor Braunstein stated that a voluntary program is already available to potential buyers, and the proposal is intended as a stop-gap. Point of sale may not be the best option to rectify these situations, as too few homes are sold each year. He expressed concerns regarding timing, cost, and overarching considerations.

Councilmember Feierbach noted that this evening's discussion may sensitize others to the issue.

ACTION: Councilmember Lieberman made a motion to investigate an enhanced disclosure program similar to the City of San Francisco's to make more information available at time of sale, at a cost not to exceed \$50, to work with the real estate community to refine the program, no inclusion of a mandatory inspection, and for the program to remain revenue neutral. There was no second on this motion.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, and unanimously approved by a show of hands to discontinue pursuit of this matter.

RECESS: 9:45 P.M.

RECONVENE: 9:55 P.M.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS (continued from earlier)

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments (continued)

Councilmember Wozniak outlined recent High-Speed Rail meetings she attended. She noted she also participated in Audit Committee and Infrastructure Committee meetings.

Councilmember Lieberman stated that solar power, Carlmont High School traffic, and solid waste were topics discussed at a recent Infrastructure Committee meeting. He noted that the force main was discussed at a recent SBSA (South Bayside Systems Authority) meeting.

Mayor Braunstein stated that a recent Economic Development Committee meeting was well attended. He noted that some new businesses will soon be opening. He outlined other topics that were discussed.

Councilmember Feierbach added that the Chamber of Commerce provided good input, and that updates were provided on target economic development sites.

Councilmember Dickenson requested direction from the Council regarding sending a letter to the City of Redwood City regarding the Highway 101 landscaping issue.

City Manager Crist noted that the freeway interchange project is complete and the landscaping has been budgeted but is not on fast track with the City of Redwood City. The requirement for the use of gray water necessitated a redesign of the project. He clarified that the construction of the bike/pedestrian bridge will affect one quadrant of the landscaping.

Mayor Braunstein requested that Councilmember Dickenson send the letter to Redwood City by week's end with personal followup immediately thereafter.

Report from Audit Committee

City Treasurer Violet stated that the Audit Committee is comprised of the Mayor, the Vice Mayor, and the City Treasurer, and that an independent review is made by a third party who is a retired finance director. The Committee met with the independent auditor. He described the report, and noted that the City of Belmont has received an unqualified opinion. He explained that Belmont has received a GFOA (Government Financial Officers Association) award of excellence in reporting for ten years in a row. He commended the work done by staff in preparation for the audit. He described the process to be used if employees have concerns regarding financial reporting, and that there is a mechanism in place for the auditor to share concerns directly with the Audit Committee. He noted that no concerns were raised, and he recommended acceptance of the report.

Mayor Braunstein commended staff for the compilation of the data and the quality work. He noted that the auditor complimented staff, which is unusual. He also noted that staff raised concerns to the auditor regarding issues with the new financial software.

City Treasurer Violet stated that the audit report is an important document that is forwarded to all bond holders.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Audit Report was unanimously accepted by a show of hands.

MEETING EXTENSION at this time, being 10:25 P.M., on a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, the meeting was unanimously extended by 30 minutes by a show of hands.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Discussion and Direction Regarding Ralston Avenue Banner Pole Policy (Feierbach)

Councilmember Feierbach noted that the Planning Commission is reviewing the City's sign ordinance, which will include the Ralston Avenue banner pole policy. She expressed support that these poles be used only for Belmont-based organizations.

City Attorney Zafferano noted that the challenge is that signs are addressed in numerous places and the intent is to consolidate signs into one document.

Denny Lawhern, Belmont resident, noted that the existing Banner Pole policy allows only Belmont-based organizations, but those guidelines are not outlined on the permit document. He noted that City activities should be given primary consideration, and recommended a generic banner to promote Belmont.

Mayor Braunstein stated this is a consistency issue and concurred with Mr. Lawhern.

ADJOURNMENT at this time, being 10:32 p.m.

Terri

Cook

City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 738